

Agricultural Marketing Service, USDA

§ 966.50

§ 966.44 Excess funds.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, to the extent practical it shall be refunded proportionately to the persons from whom it was collected.

(2) The committee, with the approval of the Secretary, may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established: *Provided*, That funds in the reserve shall not exceed approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray any expenses authorized under this part, (ii) to defray expenses during any fiscal period prior to the time assessment income is sufficient to cover such expenses, (iii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iv) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, and (v) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination any funds not required to defray the necessary expenses of liquidation, and after reasonable effort by the committee it is found impracticable to return such remaining funds to handlers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

(b) [Reserved]

[33 FR 8586, June 12, 1968]

§ 966.45 Contributions.

The committee may accept voluntary contributions but these shall only be used for production research, market research and development and marketing and promotion including paid advertising pursuant to § 966.48. Furthermore, such contributions shall be free from any encumbrances by the donor and the committee shall retain complete control of their use. The committee is prohibited from accepting

contributions from handlers subject to the order, or any person whose contributions would constitute a conflict of interest.

[51 FR 30474, Aug. 27, 1986]

RESEARCH AND DEVELOPMENT

§ 966.48 Research and promotion.

The committee may, with the approval of the Secretary, establish, or provide for the establishment of projects including production research, marketing research and development projects, and marketing promotion including paid advertising, designed to assist, improve or promote the marketing, distribution and consumption or efficient production of tomatoes. The expenses of such projects shall be paid by funds collected pursuant to §§ 966.42 and 966.45. Upon conclusion of each project, but at least annually, the committee shall summarize the program status and accomplishments, to its members and the Secretary. A similar report to the committee shall be required of any contracting party on any project carried out under this section. Also, for each project the contracting party shall be required to maintain records of money received and expenditures and such shall be available to the committee and the Secretary.

[51 FR 30474, Aug. 27, 1986]

REGULATION

§ 966.50 Marketing policy.

Prior to or at the same time as initial recommendations are made pursuant to § 966.51, the committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for the industry to follow in shipping tomatoes from the production area during the ensuring season. Additional reports shall be submitted from time to time if it is deemed advisable by the committee to adopt a new or modified marketing policy because of changes in the demand and supply situation with respect to tomatoes. The committee shall publicly announce the submission of each such marketing policy report and copies thereof shall be available at the committee's office for

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inspection by any producer or any handler. In determining each such marketing policy the committee shall give due consideration to the following:

(a) Market prices of tomatoes, including prices by grades, sizes, and quality in different packs, and such prices by foreign competing areas;

(b) Supply of tomatoes, by grade, size, and quality in the production area, and in other production areas, including foreign competing production areas;

(c) Trend and level of consumer income;

(d) Marketing conditions affecting tomato prices; and

(e) Other relevant factors.

§ 966.51 Recommendations for regulations.

The committee, upon complying with the requirements of § 966.50, may recommend regulations to the Secretary whenever it finds that such regulations, as are provided for in this subpart, will tend to effectuate the declared policies of the act.

§ 966.52 Issuance of regulations.

The Secretary shall limit the handling of tomatoes whenever he finds from the recommendation and information submitted by the Committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such regulation may:

(a) Limit, in any or all portions of the production area, the handling of particular grades, sizes, qualities (including maturity as a factor of grade or quality), or packs of any or all varieties of tomatoes, during any period; or

(b) Limit the handling of particular grades, sizes, qualities, or packs of tomatoes differently, from different varieties, for different stages of maturity, for different portions of the production area, for different containers, for different markets, for different purposes specified in § 966.54, or any combination of the foregoing, during any period; or

(c) Limit the handling of tomatoes by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity; or

(d) Fix the size, weight, capacity, dimensions, markings (including labels

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and stamps), or pack of the container or containers which may be used in the packaging, transportation, sale, shipment, or other handling of tomatoes.

[20 FR 7357, Oct. 4, 1955. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 33 FR 8586, June 12, 1968; 34 FR 19186, Dec. 4, 1969]

§ 966.53 Minimum quantities.

The committee, with the approval of the Secretary, may establish, for any or all portions of the production area, minimum quantities below which handling will be free from regulations issued or effective pursuant to §§ 966.42, 966.52, 966.54, 966.60, or any combination thereof.

§ 966.54 Shipments for special purposes.

Upon the basis of recommendations and information submitted by the committee, or other available information, the Secretary, whenever he finds that it will tend to effectuate the declared policy of the act, shall modify, suspend, or terminate regulations issued pursuant to §§ 966.42, 966.52, 966.53, 966.60, or any combination thereof, in order to facilitate handling of tomatoes for the following purposes:

(a) For export;

(b) For relief or for charity;

(c) For processing; or

(d) For other purposes which may be specified by the committee, with the approval of the Secretary.

§ 966.55 Notification of regulation.

The Secretary shall notify the committee of any regulations issued or of any modification, suspension, or termination thereof. The committee shall give reasonable notice thereof to handlers.

§ 966.56 Safeguards.

(a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent handling of tomatoes pursuant to § 966.53 or § 966.54 from entering channels of trade for other than the specific purpose authorized therefor, and rules governing the issuance and the contents of Certificates of Privilege if such certificates are prescribed as safeguards by the committee. Such safeguards may include requirements that: